

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR

SENATE BILL NO. 40

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Offered March 15, 2007.

Senate Substitute adopted, April 12, 2007.

Taken up for Perfection April 12, 2007. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0214S.04P

AN ACT

To repeal section 144.030, RSMo, and to enact in lieu thereof six new sections relating to tax incentives for certain energy uses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 144.030, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 135.670, 135.710, 143.114, 143.128, 144.030, and 144.061, to read as follows:

135.670. 1. As used in this section, the following terms mean:

- (1) "E-85 conversion kit", a parts kit designed such that once installed on a motor vehicle, such vehicle's conventional gasoline engine would be capable of utilizing E-85, or ethanol-blended fuel;
- (2) "Department", the department of revenue;
- (3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;
- (4) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 Missouri and subject to the state income tax imposed by the provisions
16 of chapter 143, RSMo, or a corporation subject to the annual
17 corporation franchise tax imposed by the provisions of chapter 147,
18 RSMo, or an express company which pays an annual tax on its gross
19 receipts in this state pursuant to chapter 153, RSMo, or an individual
20 subject to the state income tax imposed by the provisions of chapter
21 143, RSMo.

22 2. For all tax years beginning on or after January 1, 2007, a
23 taxpayer shall be allowed to claim a tax credit against the taxpayer's
24 state tax liability in an amount equal to twenty-five percent of the
25 amount such taxpayer paid to purchase and install an E-85 conversion
26 kit on a motor vehicle. The total amount of tax credits issued under
27 this section shall not exceed five hundred thousand dollars.

28 3. The amount of the tax credit claimed shall not exceed the
29 amount of the taxpayer's state tax liability for the taxable year for
30 which the credit is claimed. However, any tax credit that cannot be
31 claimed in the taxable year the purchase and installation was made
32 may be carried over to the next three succeeding taxable years until
33 the full credit has been claimed. The tax credit allowed under this
34 section shall be fully transferable.

35 4. Not less than one hundred and twenty days from the effective
36 date of this act, the department shall promulgate rules necessary for
37 the implementation of the provisions of this act. Any rule or portion of
38 a rule, as that term is defined in section 536.010, RSMo, that is created
39 under the authority delegated in this section shall become effective
40 only if it complies with and is subject to all of the provisions of chapter
41 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
42 chapter 536, RSMo, are nonseverable and if any of the powers vested
43 with the general assembly pursuant to chapter 536, RSMo, to review, to
44 delay the effective date, or to disapprove and annul a rule are
45 subsequently held unconstitutional, then the grant of rulemaking
46 authority and any rule proposed or adopted after August 28, 2007, shall
47 be invalid and void.

48 5. The provisions of this section shall automatically sunset five
49 years after August 28, 2007, unless reauthorized.

135.710. 1. As used in this section, the following terms mean:

2 (1) "Alternative fuels", any motor fuel at least seventy percent of

3 the volume of which consists of one or more of the following:

4 (a) Ethanol;

5 (b) Natural gas;

6 (c) Compressed natural gas;

7 (d) Liquified natural gas;

8 (e) Liquified petroleum gas;

9 (f) Any mixture of biodiesel and diesel fuel, without regard to

10 any use of kerosene;

11 (2) "Department", the department of natural resources;

12 (3) "Eligible applicant", a business entity that is the owner of a

13 qualified alternative fuel vehicle refueling property;

14 (4) "Qualified alternative fuel vehicle refueling property",

15 property in this state owned by a firm or corporation and used for

16 storing alternative fuels and for dispensing such alternative fuels into

17 fuel tanks of motor vehicles owned by such firm or corporation or

18 private citizens which, if constructed after August 28, 2007, was

19 constructed with at least fifty-one percent of the costs being paid to

20 qualified Missouri contractors for the:

21 (a) Fabrication of pre-manufactured equipment or process piping

22 used in the construction of such facility;

23 (b) Construction of such facility; and

24 (c) General maintenance of such facility during the time period

25 in which such facility receives any tax credit under this section;

26 (5) "Qualified Missouri contractor", a contractor whose principal

27 place of business is located in Missouri and has been located in

28 Missouri for a period of not less than five years.

29 2. For all tax years beginning on or after January 1, 2008, but

30 before January 1, 2011, any eligible applicant who installs and operates

31 a qualified alternative fuel vehicle refueling property shall be allowed

32 a credit against the tax otherwise due under chapter 143, RSMo,

33 excluding withholding tax imposed by sections 143.191 to 143.265,

34 RSMo, or due under chapter 147, RSMo, or chapter 148, RSMo, for any

35 tax year in which the applicant is constructing the refueling

36 property. The credit allowed in this section per eligible applicant shall

37 not exceed the lesser of twenty thousand dollars or twenty percent of

38 the total costs directly associated with the purchase and installation of

39 any alternative fuel storage and dispensing equipment on any qualified

40 alternative fuel vehicle refueling property, which shall not include the
41 following:

42 (1) Costs associated with the purchase of land upon which to
43 place a qualified alternative fuel vehicle refueling property;

44 (2) Costs associated with the purchase of an existing qualified
45 alternative fuel vehicle refueling property; or

46 (3) Costs for the construction or purchase of any structure.

47 3. The tax credits allowed by this section shall be claimed by the
48 eligible applicant at the time such applicant files a return for the tax
49 year in which the storage and dispensing facilities were placed in
50 service at a qualified alternative fuel vehicle refueling property, and
51 shall be applied against the income tax liability imposed by chapter
52 143, RSMo, chapter 147, RSMo, or chapter 148, RSMo, after all other
53 credits provided by law have been applied. The cumulative amount of
54 tax credits which may be claimed by eligible applicants claiming all
55 credits authorized in this section shall not exceed the following
56 amounts:

57 (1) In taxable year 2008, three million dollars;

58 (2) In taxable year 2009, two million dollars; and

59 (3) In taxable year 2010, one million dollars.

60 4. If the amount of the tax credit exceeds the eligible applicant's
61 tax liability, the difference shall not be refundable. Any amount of
62 credit that an eligible applicant is prohibited by this section from
63 claiming in a taxable year may be carried forward to any of such
64 applicant's two subsequent taxable years. Tax credits allowed under
65 this section may be assigned, transferred, sold, or otherwise conveyed.

66 5. An alternative fuel vehicle refueling property, for which an
67 eligible applicant receives tax credits under this section, which ceases
68 to sell alternative fuel shall cause the forfeiture of such eligible
69 applicant's tax credits provided under this section for the taxable year
70 in which the alternative fuel vehicle refueling property ceased to sell
71 alternative fuel and for future taxable years with no recapture of tax
72 credits obtained by an eligible applicant with respect to such
73 applicant's tax years which ended before the sale of alternative fuel
74 ceased.

75 6. The director of revenue shall establish the procedure by which
76 the tax credits in this section may be claimed, and shall establish a

77 procedure by which the cumulative amount of tax credits is
78 apportioned equally among all eligible applicants claiming the credit.
79 To the maximum extent possible, the director of revenue shall establish
80 the procedure described in this subsection in such a manner as to
81 ensure that eligible applicants can claim all the tax credits possible up
82 to the cumulative amount of tax credits available for the taxable year.
83 No eligible applicant claiming a tax credit under this section shall be
84 liable for any interest or penalty for filing a tax return after the date
85 fixed for filing such return as a result of the apportionment procedure
86 under this subsection.

87 7. Any eligible applicant desiring to claim a tax credit under this
88 section shall submit the appropriate application for such credit with
89 the department. The application for a tax credit under this section
90 shall include any information required by the department. The
91 department shall review the applications and certify to the department
92 of revenue each eligible applicant that qualifies for the tax credit.

93 8. The department and the department of revenue may
94 promulgate rules to implement the provisions of this section. Any rule
95 or portion of a rule, as that term is defined in section 536.010, RSMo,
96 that is created under the authority delegated in this section shall
97 become effective only if it complies with and is subject to all of the
98 provisions of chapter 536, RSMo, and, if applicable, section 536.028,
99 RSMo. This section and chapter 536, RSMo, are nonseverable and if any
100 of the powers vested with the general assembly pursuant to chapter
101 536, RSMo, to review, to delay the effective date, or to disapprove and
102 annul a rule are subsequently held unconstitutional, then the grant of
103 rulemaking authority and any rule proposed or adopted after August
104 28, 2007, shall be invalid and void.

105 9. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

106 (1) The provisions of the new program authorized under this
107 section shall automatically sunset six years after the effective date of
108 this section unless reauthorized by an act of the general assembly; and

109 (2) If such program is reauthorized, the program authorized
110 under this section shall automatically sunset twelve years after the
111 effective date of the reauthorization of this section; and

112 (3) This section shall terminate on December thirty-first of the
113 calendar year immediately following the calendar year in which the

114 program authorized under this section is sunset.

143.114. 1. As used in this section, the following terms mean:

2 (1) "Motor vehicle", any self-propelled vehicle not operated
3 exclusively upon tracks, except farm tractors;

4 (2) "Qualified hybrid motor vehicle", any motor vehicle licensed
5 under chapter 301, RSMo, and:

6 (a) Which meets the definition of new qualified hybrid motor
7 vehicle in section 30B(d)(3)(A) of the Internal Revenue Code of 1986, as
8 amended;

9 (b) The original use of which commences with the taxpayer; and

10 (c) Which is acquired for use by the taxpayer and not for resale.

11 2. For the tax year beginning on January 1, 2008, any taxpayer
12 who purchases a qualified hybrid vehicle shall be allowed to subtract
13 from the taxpayer's Missouri adjusted gross income to determine
14 Missouri taxable income, for the tax year in which the taxpayer
15 purchases the vehicle, an amount equal to one thousand five hundred
16 dollars or ten percent of the purchase price of the vehicle, whichever
17 is less.

18 3. The director of revenue shall establish the procedure by which
19 the deduction in this section may be claimed, and shall promulgate
20 rules to provide for the submission of documents by the taxpayer
21 proving the purchase price and date of the qualified hybrid motor
22 vehicle and to implement the provisions of this section.

23 4. Any rule or portion of a rule, as that term is defined in section
24 536.010, RSMo, that is created under the authority delegated in this
25 section shall become effective only if it complies with and is subject to
26 all of the provisions of chapter 536, RSMo, and, if applicable, section
27 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
28 and if any of the powers vested with the general assembly pursuant to
29 chapter 536, RSMo, to review, to delay the effective date, or to
30 disapprove and annul a rule are subsequently held unconstitutional,
31 then the grant of rulemaking authority and any rule proposed or
32 adopted after August 28, 2007, shall be invalid and void.

143.128. 1. For purposes of this section the term "E-85 gasoline"
2 shall mean ethanol blended gasoline formulated with a minimum
3 percentage of between seventy-five and eighty-five percent by volume
4 of ethanol, "biodiesel" shall mean fuel as defined in ASTM Standard D-

5 6751 or its subsequent standard specifications for biodiesel fuel (B100)
6 blend stock for distillate fuels, and "biodiesel-blended fuel" shall mean
7 a blend of biodiesel and conventional diesel fuel. For all tax years
8 beginning on or after January 1, 2008, a taxpayer who purchases E-85
9 gasoline in a tax year shall be allowed to claim a tax credit against the
10 tax otherwise due under this chapter, excluding sections 143.191 to
11 143.265, in the following amounts:

12 (1) For calendar year 2008, the amount of the credit shall be
13 equal to twenty-five cents per gallon of E-85 gasoline or equal to five
14 cents per gallon of biodiesel or biodiesel-blended fuel purchased by the
15 taxpayer;

16 (2) For calendar years 2009 and 2010, the amount of the credit
17 shall be equal to twenty cents per gallon of E-85 gasoline or equal to
18 three cents per gallon of biodiesel or biodiesel-blended fuel purchased
19 by the taxpayer;

20 (3) For calendar year 2011 and each subsequent calendar year,
21 the amount of the credit shall be equal to fifteen cents per gallon of E-
22 85 gasoline or equal to five cents per gallon of biodiesel or biodiesel-
23 blended fuel purchased by the taxpayer.

24 2. The amount of credits claimed per taxpayer annually shall not
25 exceed five hundred dollars. The minimum amount of tax credits a
26 taxpayer may claim shall not be less than fifty dollars. A taxpayer shall
27 claim the credit allowed by this section at the time such taxpayer files
28 a return. In the event the amount of the tax credit provided under this
29 section exceeds a taxpayer's income tax liability, no refund shall result,
30 but such excess tax credits may be carried forward to any of the
31 taxpayer's three subsequent tax years. The aggregate amount of tax
32 credits which may be redeemed in any fiscal year shall not exceed five
33 hundred thousand dollars. The tax credit shall be available regardless
34 of whether the taxpayer opts to take a standard deduction. The
35 department of revenue is authorized to adopt any rule or regulations
36 deemed necessary for the effective administration of this section. Any
37 rule or portion of a rule, as that term is defined in section 536.010,
38 RSMo, that is created under the authority delegated in this section
39 shall become effective only if it complies with and is subject to all of
40 the provisions of chapter 536, RSMo, and if applicable, section 536.028,
41 RSMo. This section and chapter 536, RSMo, are nonseverable and if any

42 of the powers vested with the general assembly pursuant to chapter
43 536, RSMo, to review, to delay the effective date, or to disapprove and
44 annul a rule are subsequently held unconstitutional, then the grant of
45 rulemaking authority and any rule proposed or adopted after August
46 28, 2007, shall be invalid and void.

47 3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

48 (1) The provisions of the new program authorized under this
49 section shall sunset automatically six years after the effective date of
50 this section unless reauthorized by an act of the general assembly; and

51 (2) If such program is reauthorized, the program authorized
52 under this section shall sunset automatically twelve years after the
53 effective date of the reauthorization of this section; and

54 (3) This section shall terminate on September first of the
55 calendar year immediately following the calendar year in which the
56 program authorized under this section is sunset.

57 4. Nothing in this section shall be construed as authorizing,
58 approving, or condoning the violation of a motor vehicle
59 manufacturer's stated warranty with regard to recommended fuel use.

144.030. 1. There is hereby specifically exempted from the provisions of
2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be
4 made in commerce between this state and any other state of the United States,
5 or between this state and any foreign country, and any retail sale which the state
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the
7 United States of America, and such retail sales of tangible personal property
8 which the general assembly of the state of Missouri is prohibited from taxing or
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and
12 sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of
13 the tax levied, assessed or payable pursuant to the local sales tax law as defined
14 in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525
15 and 144.600 to 144.745:

16 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
17 all or part of such excise tax is refunded pursuant to section 142.824, RSMo; or
18 upon the sale at retail of fuel to be consumed in manufacturing or creating gas,

19 power, steam, electrical current or in furnishing water to be sold ultimately at
20 retail; or feed for livestock or poultry; or grain to be converted into foodstuffs
21 which are to be sold ultimately in processed form at retail; or seed, limestone or
22 fertilizer which is to be used for seeding, liming or fertilizing crops which when
23 harvested will be sold at retail or will be fed to livestock or poultry to be sold
24 ultimately in processed form at retail; economic poisons registered pursuant to
25 the provisions of the Missouri pesticide registration law (sections 281.220 to
26 281.310, RSMo) which are to be used in connection with the growth or production
27 of crops, fruit trees or orchards applied before, during, or after planting, the crop
28 of which when harvested will be sold at retail or will be converted into foodstuffs
29 which are to be sold ultimately in processed form at retail;

30 (2) Materials, manufactured goods, machinery and parts which when used
31 in manufacturing, processing, compounding, mining, producing or fabricating
32 become a component part or ingredient of the new personal property resulting
33 from such manufacturing, processing, compounding, mining, producing or
34 fabricating and which new personal property is intended to be sold ultimately for
35 final use or consumption; and materials, including without limitation, gases and
36 manufactured goods, including without limitation, slagging materials and
37 firebrick, which are ultimately consumed in the manufacturing process by
38 blending, reacting or interacting with or by becoming, in whole or in part,
39 component parts or ingredients of steel products intended to be sold ultimately
40 for final use or consumption;

41 (3) Materials, replacement parts and equipment purchased for use directly
42 upon, and for the repair and maintenance or manufacture of, motor vehicles,
43 watercraft, railroad rolling stock or aircraft engaged as common carriers of
44 persons or property;

45 (4) Replacement machinery, equipment, and parts and the materials and
46 supplies solely required for the installation or construction of such replacement
47 machinery, equipment, and parts, used directly in manufacturing, mining,
48 fabricating or producing a product which is intended to be sold ultimately for
49 final use or consumption; and machinery and equipment, and the materials and
50 supplies required solely for the operation, installation or construction of such
51 machinery and equipment, purchased and used to establish new, or to replace or
52 expand existing, material recovery processing plants in this state. For the
53 purposes of this subdivision, a "material recovery processing plant" means a
54 facility that has as its primary purpose the recovery of materials into a useable

55 product or a different form which is used in producing a new product and shall
56 include a facility or equipment which are used exclusively for the collection of
57 recovered materials for delivery to a material recovery processing plant but shall
58 not include motor vehicles used on highways. For purposes of this section, the
59 terms "motor vehicle" and "highway" shall have the same meaning pursuant to
60 section 301.010, RSMo. Material recovery is not the reuse of materials within a
61 manufacturing process or the use of a product previously recovered. The material
62 recovery processing plant shall qualify under the provisions of this section
63 regardless of ownership of the material being recovered;

64 (5) Machinery and equipment, and parts and the materials and supplies
65 solely required for the installation or construction of such machinery and
66 equipment, purchased and used to establish new or to expand existing
67 manufacturing, mining or fabricating plants in the state if such machinery and
68 equipment is used directly in manufacturing, mining or fabricating a product
69 which is intended to be sold ultimately for final use or consumption;

70 (6) Tangible personal property which is used exclusively in the
71 manufacturing, processing, modification or assembling of products sold to the
72 United States government or to any agency of the United States government;

73 (7) Animals or poultry used for breeding or feeding purposes;

74 (8) Newsprint, ink, computers, photosensitive paper and film, toner,
75 printing plates and other machinery, equipment, replacement parts and supplies
76 used in producing newspapers published for dissemination of news to the general
77 public;

78 (9) The rentals of films, records or any type of sound or picture
79 transcriptions for public commercial display;

80 (10) Pumping machinery and equipment used to propel products delivered
81 by pipelines engaged as common carriers;

82 (11) Railroad rolling stock for use in transporting persons or property in
83 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
84 thousand pounds or more or trailers used by common carriers, as defined in
85 section 390.020, RSMo, solely in the transportation of persons or property in
86 interstate commerce;

87 (12) Electrical energy used in the actual primary manufacture, processing,
88 compounding, mining or producing of a product, or electrical energy used in the
89 actual secondary processing or fabricating of the product, or a material recovery
90 processing plant as defined in subdivision (4) of this subsection, in facilities

91 owned or leased by the taxpayer, if the total cost of electrical energy so used
92 exceeds ten percent of the total cost of production, either primary or secondary,
93 exclusive of the cost of electrical energy so used or if the raw materials used in
94 such processing contain at least twenty-five percent recovered materials as
95 defined in section 260.200, RSMo. **There shall be a rebuttable presumption**
96 **that the raw materials used in the primary manufacture of automobiles**
97 **contain at least twenty-five percent recovered materials.** For purposes
98 of this subdivision, "processing" means any mode of treatment, act or series of
99 acts performed upon materials to transform and reduce them to a different state
100 or thing, including treatment necessary to maintain or preserve such processing
101 by the producer at the production facility;

102 (13) Anodes which are used or consumed in manufacturing, processing,
103 compounding, mining, producing or fabricating and which have a useful life of
104 less than one year;

105 (14) Machinery, equipment, appliances and devices purchased or leased
106 and used solely for the purpose of preventing, abating or monitoring air pollution,
107 and materials and supplies solely required for the installation, construction or
108 reconstruction of such machinery, equipment, appliances and devices, and so
109 certified as such by the director of the department of natural resources, except
110 that any action by the director pursuant to this subdivision may be appealed to
111 the air conservation commission which may uphold or reverse such action;

112 (15) Machinery, equipment, appliances and devices purchased or leased
113 and used solely for the purpose of preventing, abating or monitoring water
114 pollution, and materials and supplies solely required for the installation,
115 construction or reconstruction of such machinery, equipment, appliances and
116 devices, and so certified as such by the director of the department of natural
117 resources, except that any action by the director pursuant to this subdivision may
118 be appealed to the Missouri clean water commission which may uphold or reverse
119 such action;

120 (16) Tangible personal property purchased by a rural water district;

121 (17) All amounts paid or charged for admission or participation or other
122 fees paid by or other charges to individuals in or for any place of amusement,
123 entertainment or recreation, games or athletic events, including museums, fairs,
124 zoos and planetariums, owned or operated by a municipality or other political
125 subdivision where all the proceeds derived therefrom benefit the municipality or
126 other political subdivision and do not inure to any private person, firm, or

127 corporation;

128 (18) All sales of insulin and prosthetic or orthopedic devices as defined on
129 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
130 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
131 of that act, and also specifically including hearing aids and hearing aid supplies
132 and all sales of drugs which may be legally dispensed by a licensed pharmacist
133 only upon a lawful prescription of a practitioner licensed to administer those
134 items, including samples and materials used to manufacture samples which may
135 be dispensed by a practitioner authorized to dispense such samples and all sales
136 of medical oxygen, home respiratory equipment and accessories, hospital beds and
137 accessories and ambulatory aids, all sales of manual and powered wheelchairs,
138 stairway lifts, Braille writers, electronic Braille equipment and, if purchased by
139 or on behalf of a person with one or more physical or mental disabilities to enable
140 them to function more independently, all sales of scooters, reading machines,
141 electronic print enlargers and magnifiers, electronic alternative and augmentative
142 communication devices, and items used solely to modify motor vehicles to permit
143 the use of such motor vehicles by individuals with disabilities or sales of
144 over-the-counter or nonprescription drugs to individuals with disabilities;

145 (19) All sales made by or to religious and charitable organizations and
146 institutions in their religious, charitable or educational functions and activities
147 and all sales made by or to all elementary and secondary schools operated at
148 public expense in their educational functions and activities;

149 (20) All sales of aircraft to common carriers for storage or for use in
150 interstate commerce and all sales made by or to not-for-profit civic, social, service
151 or fraternal organizations, including fraternal organizations which have been
152 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
153 1986 Internal Revenue Code, as amended, in their civic or charitable functions
154 and activities and all sales made to eleemosynary and penal institutions and
155 industries of the state, and all sales made to any private not-for-profit institution
156 of higher education not otherwise excluded pursuant to subdivision (19) of this
157 subsection or any institution of higher education supported by public funds, and
158 all sales made to a state relief agency in the exercise of relief functions and
159 activities;

160 (21) All ticket sales made by benevolent, scientific and educational
161 associations which are formed to foster, encourage, and promote progress and
162 improvement in the science of agriculture and in the raising and breeding of

163 animals, and by nonprofit summer theater organizations if such organizations are
164 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
165 and all admission charges and entry fees to the Missouri state fair or any fair
166 conducted by a county agricultural and mechanical society organized and
167 operated pursuant to sections 262.290 to 262.530, RSMo;

168 (22) All sales made to any private not-for-profit elementary or secondary
169 school, all sales of feed additives, medications or vaccines administered to
170 livestock or poultry in the production of food or fiber, all sales of pesticides used
171 in the production of crops, livestock or poultry for food or fiber, all sales of
172 bedding used in the production of livestock or poultry for food or fiber, all sales
173 of propane or natural gas, electricity or diesel fuel used exclusively for drying
174 agricultural crops, natural gas used in the primary manufacture or processing of
175 fuel ethanol as defined in section 142.028, RSMo, natural gas, propane, and
176 electricity used by an eligible new generation cooperative or an eligible new
177 generation processing entity as defined in section 348.432, RSMo, and all sales
178 of farm machinery and equipment, other than airplanes, motor vehicles and
179 trailers. As used in this subdivision, the term "feed additives" means tangible
180 personal property which, when mixed with feed for livestock or poultry, is to be
181 used in the feeding of livestock or poultry. As used in this subdivision, the term
182 "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and
183 other assorted pesticide carriers used to improve or enhance the effect of a
184 pesticide and the foam used to mark the application of pesticides and herbicides
185 for the production of crops, livestock or poultry. As used in this subdivision, the
186 term "farm machinery and equipment" means new or used farm tractors and such
187 other new or used farm machinery and equipment and repair or replacement
188 parts thereon, and supplies and lubricants used exclusively, solely, and directly
189 for producing crops, raising and feeding livestock, fish, poultry, pheasants,
190 chukar, quail, or for producing milk for ultimate sale at retail, including field
191 drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which
192 is:

193 (a) Used exclusively for agricultural purposes;

194 (b) Used on land owned or leased for the purpose of producing farm
195 products; and

196 (c) Used directly in producing farm products to be sold ultimately in
197 processed form or otherwise at retail or in producing farm products to be fed to
198 livestock or poultry to be sold ultimately in processed form at retail;

199 (23) Except as otherwise provided in section 144.032, all sales of metered
200 water service, electricity, electrical current, natural, artificial or propane gas,
201 wood, coal or home heating oil for domestic use and in any city not within a
202 county, all sales of metered or unmetered water service for domestic use;

203 (a) "Domestic use" means that portion of metered water service,
204 electricity, electrical current, natural, artificial or propane gas, wood, coal or
205 home heating oil, and in any city not within a county, metered or unmetered
206 water service, which an individual occupant of a residential premises uses for
207 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
208 a single or master meter for residential apartments or condominiums, including
209 service for common areas and facilities and vacant units, shall be deemed to be
210 for domestic use. Each seller shall establish and maintain a system whereby
211 individual purchases are determined as exempt or nonexempt;

212 (b) Regulated utility sellers shall determine whether individual purchases
213 are exempt or nonexempt based upon the seller's utility service rate
214 classifications as contained in tariffs on file with and approved by the Missouri
215 public service commission. Sales and purchases made pursuant to the rate
216 classification "residential" and sales to and purchases made by or on behalf of the
217 occupants of residential apartments or condominiums through a single or master
218 meter, including service for common areas and facilities and vacant units, shall
219 be considered as sales made for domestic use and such sales shall be exempt from
220 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
221 classified as nondomestic use. The seller's utility service rate classification and
222 the provision of service thereunder shall be conclusive as to whether or not the
223 utility must charge sales tax;

224 (c) Each person making domestic use purchases of services or property
225 and who uses any portion of the services or property so purchased for a
226 nondomestic use shall, by the fifteenth day of the fourth month following the year
227 of purchase, and without assessment, notice or demand, file a return and pay
228 sales tax on that portion of nondomestic purchases. Each person making
229 nondomestic purchases of services or property and who uses any portion of the
230 services or property so purchased for domestic use, and each person making
231 domestic purchases on behalf of occupants of residential apartments or
232 condominiums through a single or master meter, including service for common
233 areas and facilities and vacant units, under a nonresidential utility service rate
234 classification may, between the first day of the first month and the fifteenth day

235 of the fourth month following the year of purchase, apply for credit or refund to
236 the director of revenue and the director shall give credit or make refund for taxes
237 paid on the domestic use portion of the purchase. The person making such
238 purchases on behalf of occupants of residential apartments or condominiums shall
239 have standing to apply to the director of revenue for such credit or refund;

240 (24) All sales of handicraft items made by the seller or the seller's spouse
241 if the seller or the seller's spouse is at least sixty-five years of age, and if the total
242 gross proceeds from such sales do not constitute a majority of the annual gross
243 income of the seller;

244 (25) Excise taxes, collected on sales at retail, imposed by Sections 4041,
245 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
246 States Code. The director of revenue shall promulgate rules pursuant to chapter
247 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

248 (26) Sales of fuel consumed or used in the operation of ships, barges, or
249 waterborne vessels which are used primarily in or for the transportation of
250 property or cargo, or the conveyance of persons for hire, on navigable rivers
251 bordering on or located in part in this state, if such fuel is delivered by the seller
252 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
253 river;

254 (27) All sales made to an interstate compact agency created pursuant to
255 sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100, RSMo, in the
256 exercise of the functions and activities of such agency as provided pursuant to the
257 compact;

258 (28) Computers, computer software and computer security systems
259 purchased for use by architectural or engineering firms headquartered in this
260 state. For the purposes of this subdivision, "headquartered in this state" means
261 the office for the administrative management of at least four integrated facilities
262 operated by the taxpayer is located in the state of Missouri;

263 (29) All livestock sales when either the seller is engaged in the growing,
264 producing or feeding of such livestock, or the seller is engaged in the business of
265 buying and selling, bartering or leasing of such livestock;

266 (30) All sales of barges which are to be used primarily in the
267 transportation of property or cargo on interstate waterways;

268 (31) Electrical energy or gas, whether natural, artificial or propane, water,
269 or other utilities which are ultimately consumed in connection with the
270 manufacturing of cellular glass products or in any material recovery processing

271 plant as defined in subdivision (4) of subsection 2 of this section;

272 (32) Notwithstanding other provisions of law to the contrary, all sales of
273 pesticides or herbicides used in the production of crops, aquaculture, livestock or
274 poultry;

275 (33) Tangible personal property purchased for use or consumption directly
276 or exclusively in the research and development of prescription pharmaceuticals
277 consumed by humans or animals;

278 (34) All sales of grain bins for storage of grain for resale;

279 (35) All sales of feed which are developed for and used in the feeding of
280 pets owned by a commercial breeder when such sales are made to a commercial
281 breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections
282 273.325 to 273.357, RSMo;

283 (36) All purchases by a contractor on behalf of an entity located in another
284 state, provided that the entity is authorized to issue a certificate of exemption for
285 purchases to a contractor under the provisions of that state's laws. For purposes
286 of this subdivision, the term "certificate of exemption" shall mean any document
287 evidencing that the entity is exempt from sales and use taxes on purchases
288 pursuant to the laws of the state in which the entity is located. Any contractor
289 making purchases on behalf of such entity shall maintain a copy of the entity's
290 exemption certificate as evidence of the exemption. If the exemption certificate
291 issued by the exempt entity to the contractor is later determined by the director
292 of revenue to be invalid for any reason and the contractor has accepted the
293 certificate in good faith, neither the contractor or the exempt entity shall be liable
294 for the payment of any taxes, interest and penalty due as the result of use of the
295 invalid exemption certificate. Materials shall be exempt from all state and local
296 sales and use taxes when purchased by a contractor for the purpose of fabricating
297 tangible personal property which is used in fulfilling a contract for the purpose
298 of constructing, repairing or remodeling facilities for the following:

299 (a) An exempt entity located in this state, if the entity is one of those
300 entities able to issue project exemption certificates in accordance with the
301 provisions of section 144.062; or

302 (b) An exempt entity located outside the state if the exempt entity is
303 authorized to issue an exemption certificate to contractors in accordance with the
304 provisions of that state's law and the applicable provisions of this section;

305 (37) Tangible personal property purchased for use or consumption directly
306 or exclusively in research or experimentation activities performed by life science

307 companies and so certified as such by the director of the department of economic
308 development or the director's designees; except that, the total amount of
309 exemptions certified pursuant to this section shall not exceed one million three
310 hundred thousand dollars in state and local taxes per fiscal year. For purposes
311 of this subdivision, the term "life science companies" means companies whose
312 primary research activities are in agriculture, pharmaceuticals, biomedical or food
313 ingredients, and whose North American Industry Classification System (NAICS)
314 Codes fall under industry 541710 (biotech research or development laboratories),
315 621511 (medical laboratories) or 541940 (veterinary services). The exemption
316 provided by this subdivision shall expire on June 30, 2003;

317 (38) All sales or other transfers of tangible personal property to a lessor
318 who leases the property under a lease of one year or longer executed or in effect
319 at the time of the sale or other transfer to an interstate compact agency created
320 pursuant to sections 70.370 to 70.441, RSMo, or sections 238.010 to 238.100,
321 RSMo; [and]

322 (39) Sales of tickets to any collegiate athletic championship event that is
323 held in a facility owned or operated by a governmental authority or commission,
324 a quasi-governmental agency, a state university or college or by the state or any
325 political subdivision thereof, including a municipality, and that is played on a
326 neutral site and may reasonably be played at a site located outside the state of
327 Missouri. For purposes of this subdivision, "neutral site" means any site that is
328 not located on the campus of a conference member institution participating in the
329 event; **and**

330 (40) **Sales of new diesel-powered motor vehicles with a gross**
331 **vehicle rating not exceeding eight thousand five hundred pounds.**

144.061. **For fiscal year 2008, there shall hereby be exempted**
2 **from state sales tax, sales of new motor vehicles designed to operate on**
3 **eighty-five percent ethanol fuel.**

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